

PERMIT NO. MIG031000



**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
POINT SOURCE DISCHARGE GENERAL PERMIT**

Nuisance Plant and Algae Control

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*) (the "Federal Act"); Michigan Act 451, Public Acts of 1994, as amended (the "Michigan Act"); Part 31, and Michigan Executive Order 2011-1; point source discharges of biological pesticides and pesticide residues resulting from the application of chemical pesticides (hereinafter collectively referred to as "pesticides") are authorized to be discharged in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in this general National Pollutant Discharge Elimination System (NPDES) permit (the "general permit").

This general permit applies to the discharge of pesticides (1) which are applied to, over, or near surface waters of the state for the control of aquatic nuisance plants and algae, and (2) have been determined by the Michigan Department of Environmental Quality (the "Department") not to need an individual NPDES permit. Discharges which may cause or contribute to a violation of a water quality standard are not authorized by this general permit.

To obtain authorization under this general permit for eligible discharges, a Permittee must submit a timely, complete, and accurate application consistent with the requirements of Part I.A.1. The Permittee must also possess a valid authorization issued under Part 33 of the Michigan Act, if required, in order to constitute a valid authorization to discharge under this general permit.

The issuance of a Certificate of Coverage (COC) under this general permit does not authorize the violation of any federal, state, or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other Department permits, or approvals from other units of government as may be required by law.

Unless specified otherwise, all contact with the Department required by this general permit shall be to the position(s) indicated in the COC.

This general permit shall take effect **February 1, 2012**. The provisions of this general permit are severable. After notice and opportunity for a hearing, this general permit may be modified, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules.

This general permit shall expire at midnight, **February 1, 2017**.

Issued January 31, 2012.

A handwritten signature in cursive script, reading "Philip Argiroff", is written over a horizontal line.

Philip Argiroff, Chief
Permits Section
Water Resources Division

PERMIT FEE REQUIREMENTS

In accordance with Section 324.3120 of the Michigan Act, the Operator shall make payment of an annual permit fee to the Department for each October 1 the COC is in effect regardless of occurrence of discharge. The Operator shall submit the fee in response to the Department's annual notice. The fee shall be postmarked by January 15 for notices mailed by December 1. The fee is due no later than 45 days after receiving the notice for notices mailed after December 1.

NPDES Permit Fee Category: Industrial/Commercial Minor Low-Flow Facility; Annual Permit Fee - \$150.00.

CONTESTED CASE INFORMATION

The terms and conditions of this general permit shall apply to an individual Operator on the effective date of a COC for the Operator. The Department of Licensing and Regulatory Affairs may grant a contested case hearing on this general permit in accordance with the Michigan Act. Any person to whom this general permit is not acceptable may file a sworn petition with the Office of Regulatory Reinvention within the Michigan Department of Licensing and Regulatory Affairs, setting forth the conditions of the general permit which are being challenged and specifying the grounds for the challenge. The Department of Licensing and Regulatory Affairs may grant a contested case hearing on the COC issued to a person under this general permit in accordance with Rule 2192(c) (Rule 323.2192 of the Michigan Administrative Code).

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ATTACHMENT A

PART I

Section A. Permit Coverage

1. Coverage Under This General Permit

This general permit covers any Operator who, in the process of controlling non-native invasive or other nuisance plants and algae in water or at water's edge, discharges to the surface waters of the state as a result of the application of pesticides. Some Operators will be required to submit a permit application in accordance with Part I.A.3. Additionally, some Operators will be required to possess a valid authorization under Part 33 of the Michigan Act.

For the purpose of this general permit, "Operator" is defined in Part II.A. to mean any entity associated with the application of pesticides that results in a discharge to waters of the state that meets either of the following two criteria: 1) any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e., they are authorized to direct workers to carry out those activities); or 2) any entity with control over the decision to perform pesticide application, including the ability to modify those decisions. Operators identified in 1) above are referred to in this general permit as "Applicators," while Operators identified in 2) are referred to in this general permit as "Permittees." As defined, more than one Operator may be responsible for complying with this general permit for any single discharge from the application of pesticides. All Operators are defined as either an Applicator or a Permittee, or both an Applicator and a Permittee.

Except for discharges identified in Table 1-1, any Operator with eligible discharges is automatically authorized to discharge and is not required to apply for and obtain a COC issued under this general permit. Permittees with eligible discharges identified in Table 1-1 are authorized under this general permit consistent with the requirements in that table.

TABLE 1-1: The following Permittee(s) are required to apply for and obtain an individual COC issued under this general permit:

Which Permittees Must Submit an Application for a COC	For Which Pesticide Application Activities
Any agency for which pest management for land stewardship is an integral part of the organization's operations	All plant and algae pest control activities resulting in a discharge to waters of the State of Michigan
Irrigation and weed control districts, or similar pest control districts	All plant and algae control activities resulting in a discharge to waters of the State of Michigan
Local governments or other entities that exceed the <i>annual treatment area threshold</i> identified here	Treatment during a calendar year if more than either: 20 linear miles or 80 acres of water (i.e., surface area)

For calculating annual treatment areas for this pesticide use pattern, count each treatment area only once, regardless of the number of pesticide application activities performed on that area in a given year. Also, for linear features (e.g., canal or ditch), use the length of the linear feature, whether treating in or adjacent to the feature, regardless of the number of applications made to that feature during the calendar year. For example, whether treating the bank on one side of a ten mile long ditch, banks on both sides of the ditch, and/or water in that ditch, the total treatment area is ten miles for purposes of determining if an application for a COC is required to be submitted. Additionally, if the same 10 mile area is treated more than once in a calendar year, the total area treated is still 10 miles for purposes of comparing with the threshold in Table 1-1. The treatment area for this pesticide use pattern is not additive over the calendar year.

PART I**Section A. Permit Coverage****2. Authorized Treatment Areas**

The treatment area(s) authorized under this general permit shall be limited to treatment area(s) located within the jurisdictional boundaries of the responsible government entity or, for all other entities, the treatment area(s) described in the Permittee's application for coverage under this general permit. To receive authorization to treat areas not originally described in the application for coverage, the Permittee shall request a modified COC by submitting an amended application with the appropriate fee to the Michigan Department of Environmental Quality, Cashier's Office, WB-NPS, P.O. Box 30657, Lansing, Michigan 48909-8157.

3. Discharges Currently or Previously Covered by Another Permit

Discharges are not eligible for coverage under this general permit if either of the following apply:

- a. The discharge is covered by another NPDES permit
- b. The discharge was included in a permit that in the past 5 years has been or is in the process of being denied, terminated, or revoked by the Department. (This does not apply to the routine reissuance of permits every 5 years.)

PART I**Section B. Technology Based Discharge Limitations****1. Discharge Limitations**

During the period beginning on the effective date of this general permit and the effective date of an individual COC, if required, and lasting until the expiration date of this general permit or termination or revocation of the individual COC, the Operator(s) is/are authorized to discharge pesticides to the surface waters of the State of Michigan as a result of the application of pesticides to control nuisance plants and algae. Such discharge shall be limited and monitored by the Operator(s) as specified below.

All Operators shall minimize pesticide discharges to waters of the state through the use of control measures to the extent technologically available and economically achievable and practicable.

Failure to comply with any of the requirements of this section shall result in corrective action as described in Part II.C.6.

a. Pesticide application requirements:

- 1) All Operators shall comply with the requirements in this general permit, the requirements of any Part 33 authorization, if required, and follow the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) label requirements. General permit requirements do not replace the requirements on the FIFRA label.
- 2) Only pesticide products registered in Michigan by the Michigan Department of Agriculture (MDA) may be applied. Information regarding the registration of pesticides in Michigan may be found at <http://www.michigan.gov/mda>. The application of biological pesticides (i.e., bacterial strains) should be given preference over the use of chemical (i.e., non-biological) pesticides.
- 3) Each application must utilize only the amount of pesticide and frequency of pesticide application necessary to control the target pest, using equipment and application procedures appropriate for this task.
- 4) Regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides must be performed.
- 5) Pesticide application equipment must be maintained in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing such equipment on a regular basis. Pesticide application equipment must be calibrated by appropriately trained personnel to deliver the precise quantity of pesticide needed to achieve greatest efficacy against the target pest.

b. Treatment Area Observation

Visual assessments of the treatment area shall occur each time the treatment area is visited. The area in and around the area to which pesticides are applied shall be examined for adverse incidents, if any, caused by the pesticide application. Adverse incidents include, but are not limited to, the death or distress of non-target organisms, and disruption of aquatic and wildlife habitat and recreational or municipal water use.

c. Narrative Standard

No unusual or unexpected effects to non-target organisms shall occur, nor shall the receiving water contain turbidity, color, oil films, floating solids, foams, settleable solids, suspended solids, or deposits as a result of this discharge in unnatural quantities, which are or may become injurious to any designated use. The discharge must be controlled as necessary to meet applicable numeric and narrative state water quality standards. If at any time the Operator becomes aware, or the Department determines, that the discharge causes or contributes to an excursion of applicable water quality standards, the Operator shall take corrective action as required in Part II.C.6.

PART I**Section B. Technology Based Discharge Limitations****2. Pest Management Measures**

To meet the effluent limitations in Part I.B.1 of this general permit, prior to any pesticide application, any Permittee, that is or will be required to submit an application, as identified in Part I.A.1, must minimize the discharge of pesticides to surface waters of the State of Michigan from the application of pesticides through implementation of the following Pest Management Measures.

Prior to the first pesticide application covered under this general permit, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, the Permittee must do all of the following for each pest management area, as defined in Part II.A.:

- a) identify areas with pest problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g., wildlife habitat, fisheries, vegetation, and recreation)
- b) identify the target pest(s)
- c) identify possible factors causing or contributing to the pest problem (e.g., nutrients, invasive species, etc.)
- d) establish any pest- and site-specific action threshold for implementing pest management strategies
- e) in the event there is no data from the past calendar year for a treatment area, see Part I.C.1. below for documentation requirements
- f) select and implement efficient and effective means of pest management that minimize discharges to surface waters of the state resulting from the application of pesticides to control nuisance plants or algae by evaluating the following management options:
 - 1) No action
 - 2) Prevention
 - 3) Mechanical or physical methods
 - 4) Cultural methods
 - 5) Biological control agents
 - 6) Pesticides
- g) conduct surveillance prior to each pesticide application to assess the treatment area and determine when the action threshold(s) is met that necessitates the need for pest management
- h) reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold(s) has been met

NOTE: If other documents/practices, such as pre-existing pest management measures, are relied upon to describe how compliance with the discharge limitations in this general permit will be achieved, the appropriate portions of such documents shall be attached to the Pesticide Discharge Management Plan (for large entities) (Part I.C.1) or the Pesticide Discharge Evaluation Worksheet (for small entities) to document the implementation of the discharge limitations.

PART I**Section C. Pesticide Discharge Management Plan****1. Pesticide Discharge Management Plan (PDMP)**

Any Permittee that is or will be required to submit an application, as required in Part I.A.1, and is a **Large Entity**, as defined in Part II.A., must prepare a properly signed and dated Pesticide Discharge Management Plan (PDMP) for each pest management area.

The plan must be kept up-to-date for the duration of coverage under this general permit, even if the treatment area falls below the annual treatment area threshold. The deadlines for development of the PDMP are as follows:

CATEGORY	PDMP DEADLINE
Permittees who are required to submit an application and are large entities	Prior to the first pesticide application covered under this permit
Permittees who will be required to submit an application when it is determined they will exceed the applicable annual treatment area threshold and are large entities	Prior to exceeding the annual treatment area threshold

The PDMP does not contain effluent limitations. The PDMP documents how the Permittee will implement the discharge limitations in Part I.B.1., including evaluation and selection of pest management measures to meet those discharge limitations and minimize discharges in accordance with Part I.B.2. Procedures or plans in other documents that meet any of the requirements of this general permit may be incorporated by reference into the PDMP. A copy of any portions of other documents used must be attached to the PDMP. The pest management measures apply to the Permittee and any employees, contractors, subcontractors, or other agents of the Permittee. Implementation of the control measures must be documented and the documentation kept up-to-date.

The PDMP must include all of the following:

- a. Description of the pesticide discharge management team, including name, certifications or registrations (if applicable), and contact information for the person(s) with the following responsibilities:
 - 1) managing pests in relation to the pest management area
 - 2) developing and revising the PDMP
 - 3) developing, revising, and implementing corrective actions and other discharge limitation requirements
 - 4) pesticide applicators: If the pesticide applicator is unknown at the time of PDMP development, indicate whether or not a commercial applicator will be used and when it is anticipated that the applicator will be identified.

NOTE: Identification of team members must include any written agreement(s) between the Permittee and any other person(s), such as a commercial applicator, that specify the division of responsibilities between the parties that is necessary to comply with the provisions of this general permit.

- b. Pest management area description, including:
 - 1) the target pest(s), source of the pest problem, and source of the data used to identify the problem in Part I.B.2. above, if available
 - 2) action thresholds, including how they were determined
 - 3) a general location map identifying the boundaries of the area to which the plan applies and the location of the surface waters of the state
 - 4) Document any Tier 3 (Outstanding State Resource Water) waterbodies and any waters identified as impaired by a substance which either is a pesticide active ingredient or a degradate of such an active ingredient
- c. Pest management measure description that documents the evaluation of pest management measures and states the pest management measures that will be implemented to comply with the discharge limitations required in Part I.B.1. above. In the evaluation, Permittees must consider the impact to water quality, non-target organisms, feasibility, cost effectiveness, and any relevant previous Pest Management Measures. The active ingredient(s) of any pesticide(s) used must also be included.

PART I**Section C. Pesticide Discharge Management Plan**

- d. Schedules and procedures that detail all of the following:
- 1) pre-application pest surveillance
 - 2) assessment of environmental conditions in a treatment area
 - 3) determination of the lowest effective amount of pesticide product per application and the optimum frequency of pesticide applications necessary to control the target pest
 - 4) maintenance activities for preventing spills and leaks
 - 5) maintenance activities to ensure that the pesticide application equipment is in proper operating condition, including calibrating, cleaning, and repairing the equipment
 - 6) spill response procedures, including the plan for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. Procedures for notification of the Department, appropriate personnel, and emergency response agencies shall also be included
 - 7) adverse incident response procedures, including notification of the incident. Contact information for the Department, the nearest emergency medical facility, and the nearest hazardous chemical responder shall be in locations that are readily accessible and available
 - 8) monitoring, including the process for determining the location of any monitoring, the monitoring schedule, the person responsible for conducting monitoring, and the procedures for documenting any impacts to non-target organisms resulting from the pesticide discharge

The PDMP shall be modified whenever necessary to address any issues that trigger corrective action, if appropriate, or when a change in the identified treatment pest control activities significantly changes the type or quantity of pollutants discharged. Updates to the PDMP shall be made before the next pesticide application that results in a discharge, if practicable, or if not, no later than thirty (30) days after the change in pesticide activities.

A copy of the current PDMP, along with all supporting maps and documents, shall be retained by the Permittee. The PDMP and all supporting documents must be readily available upon request by the Department, and the Department may provide copies of any of these documents upon request provided the request complies with the provisions of Title 40 of the Code of Federal Regulations (40 CFR), Part 2, Confidential Business Information, and the claim of confidentiality is properly asserted and documented as required by said regulation.

PART I**Section D. Record Keeping and Annual Report****1. Record Keeping**

All Operators must keep written or electronic records as required in this general permit. These records must be accurate, complete, and sufficient to demonstrate compliance with the conditions of this general permit. Operators can rely upon records and documents developed for other obligations, such as requirements under FIFRA and state or local pesticide programs, provided all requirements of the general permit are satisfied.

No later than 14 days following completion of the noted activity, the records listed below must be documented and retained by the appropriate Operator. Records shall be kept for a minimum of three years from the date of the noted activity made under this general permit and must be immediately available to the Department upon request.

- a. **All Operators must keep the following records:**
 - 1) a copy of any Adverse Incident Reports
 - 2) the rationale for any determination that reporting an identified adverse incident is not required, consistent with the allowances identified in Part II.B.2.
 - 3) a copy of any corrective action documentation
 - 4) a copy of any spill, leak, or other unpermitted discharge documentation
- b. Any Operator that is a **For-Hire Applicator**, as defined Part II.A., must retain the following records in addition to the records identified in Part I.D.1.a. above:
 - 1) documentation of any equipment cleaning, calibration, and repair
 - 2) information on each treatment area to which pesticides are discharged, including:
 - A) a description of the treatment area, including location and size (in acres or linear miles), and identification of any surface waters of the state, either by name or location, to which any pesticide(s) is/are discharged
 - B) the target pest(s)
 - C) the name of each pesticide product used, including the United States Environmental Protection Agency (USEPA) registration number
 - D) the quantity of pesticide applied, specifying if quantities are for the pesticide product as packaged or as formulated and applied
 - E) pesticide application date(s)
 - F) whether or not visual monitoring was conducted during the pesticide application and/or post-application and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by the application of pesticides
- c. Any Operator that is a Permittee required to submit an application, and who is a **Small Entity**, must also retain the following records, in addition to the records identified in Part I.D.1.a. and b. above.
 - 1) a copy of the application for coverage under this general permit, any correspondence exchanged between the Operator and the Department specific to coverage under this general permit, and a copy of the issued COC
 - 2) information on each treatment area to which pesticides are discharged, including:
 - A) a description of the pest management measure(s) implemented prior to the first pesticide application
 - B) the company name and contact information for pesticide applicator

***NOTE:** A Pesticide Discharge Evaluation Worksheet (PDEW) for documenting this information on each treatment area is available for Small Entities (available on the Pesticide Control Web site at: http://www.michigan.gov/deq/0,4561,7-135-3313_3682_3713-241279--,00.html).*

- d. Any Operator that is a Permittee required to submit an application, and who is a **Large Entity**, must also retain the following records, in addition to the records identified in Part I.D.1.a., b., and c. above.
 - 1) a copy of the PDMP, including any modification made to the PDMP during the term of this permit
 - 2) a copy of annual reports submitted to the Department
 - 3) information on each treatment area to which pesticides are discharged, including:
 - A) action thresholds
 - B) the method and/or data used to determine that action threshold(s) has been met
 - C) pesticide application date(s)

PART I**Section D. Record Keeping and Annual Report****2. Annual Report**

Any Permittee required to submit an application, and who is defined as a **Large Entity** in Part II.A., must submit an annual report to the Department. The Permittee is required to submit an annual report on the approved Department form no later than November 30th of each year their COC is in effect, regardless of the occurrence of a discharge from the application of pesticides. The annual report shall be submitted to the Permits Section, DEQ-WRD, P.O. Box 30458, Lansing, Michigan 48909-7958.

The annual report shall include:

- a. the COC number
- b. Permittee name and contact information
- c. contact person name, title, e-mail address (if any), and phone number
- d. for each treatment area, report the following information:
 - 1) a description of the treatment area, including the location and size (acres or linear miles) of the treatment area
 - 2) identification of any surface waters of the state or other treatment area, including size, either by name or by location, to which any pesticide(s) was/were discharged
 - 3) the company name(s) and contact information for pesticide applicator(s), if different from the Permittee
 - 4) the total amount of each pesticide product applied during the reporting year by the USEPA registration number(s) and application method
 - 5) whether this pest control activity was addressed in the PDMP prior to pesticide application
 - 6) if applicable, a report of any adverse incidents as a result of the treatment(s)
 - 7) if applicable, a description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s)

NOTE: *If other documents are relied upon to fulfill the conditions of this reporting requirement, the appropriate portions of such documents shall be attached to the report.*

PART I**Section E. General Conditions****1. Requirement to Obtain an Individual Permit**

The Department may also require any Operator who is authorized to discharge under this general permit to apply for and obtain an individual NPDES permit if either of the following circumstances apply:

- a. The discharge of pesticides to surface waters of the state identified as impaired for the pesticide or its degradates. Impaired waters are those which have failed to meet applicable water quality standards under Section 303(d) of the Federal Act, regardless of the establishment or approval of a total maximum daily load; and
- b. The discharge of pesticides to Outstanding State Resource Waters pursuant to R 323.1098(6) of the Water Quality Standards.

Any person may request the Department to take action pursuant to the provisions of Rule 2191 (Rule 323.2191 of the Michigan Administrative Code).

2. Permit Contact

The "Permit Contact" was specified in the application. The Permittee may replace the permit contact at any time, and shall notify the Department in writing or via e-mail within 10 days after replacement. The notification shall include the name, address, and telephone number of the new permit contact. The notification shall be submitted to the Permits Section, DEQ-WRD, P.O. Box 30458, Lansing, Michigan 48909-7958.

- a. The permit contact shall be (or a duly authorized representative of this person):
 - for a corporation, a principal executive officer of at least the level of vice president, or a designated representative, if the representative is responsible for the overall operation from which the discharge described in the permit application originates
 - for a partnership, a general partner
 - for a sole proprietorship, the proprietor
 - for a municipal, state, or other public facility, either a principal executive officer, the mayor, village president, city or village manager, or other duly authorized employee
 - for a private nonprofit or for-profit organization, association, or board, the executive officer, chairperson or designated representative, if that representative is responsible for the decision to perform pesticide control activities described in the permit application
 - for private property, a property owner or designated representative, if that representative is responsible for the decision to perform pesticide control activities described in the permit application
- b. A person is a duly authorized representative only if:
 - the authorization is made in writing to the Department by a person described in paragraph a. of this section
 - the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position)

Nothing in this section obviates the Permittee from properly submitting reports and forms as required by law.

PART I**Section E. General Conditions****3. Expiration and Reissuance**

On or before August 1, 2016, a Permittee seeking continued authorization to discharge under this general permit beyond the general permit's expiration date shall submit to the Department a written request containing such information, forms, and fees as required by the Department. Without an adequate request, a Permittee's authorization to discharge will expire on February 1, 2017. With an adequate request, a Permittee shall continue to be subject to the terms and conditions of the expired general permit until the Department takes action on the request, unless this general permit is terminated or revoked.

If this general permit is terminated or revoked, the Permittee will receive written notification from the Department that all authorizations to discharge under the general permit shall expire on the date of termination or revocation.

If this general permit is modified, the Department will notify the Permittee of any required action. Without an adequate response, a Permittee's authorization to discharge will terminate on the effective date of the modified general permit. With an adequate response, a Permittee shall be subject to the terms and conditions of the modified general permit on the effective date of the modified general permit, unless the Department notifies the Permittee otherwise.

If a discharge is terminated, the Permittee shall request termination of the discharge authorization.

PART II

Section A. Definitions

NOTE: Standard permit conditions in Part II generally are consistent with the permit provisions required in 40 CFR 122.41 and the Michigan Act but are modified to reflect the nature of discharges covered under this general permit.

This list of definitions may include terms not applicable to this permit.

Action threshold means the point at which pest populations or environmental conditions can no longer be tolerated, necessitating that pest control action be taken based on economic, human health, aesthetic, or other effects. Sighting a single pest does not always mean control is needed. Action thresholds help determine both the need for control actions and the proper timing of such actions.

Active ingredient means any substance, or group of structurally similar substances if specified by the department, that will prevent, destroy, repel, or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA sec. 2(a). [40 CFR 152.3] Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. [40 CFR 174.3]

Adverse incident means an incident in which (1) a person or non-target organism may have been exposed to a pesticide residue, and (2) the person or non-target organism suffered a toxic or adverse effect. Toxic or adverse effects include effects that occur within surface waters of the state on non-target plants, fish, or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- Distressed or dead juvenile and small fishes
- Washed up or floating fish
- Fish swimming abnormally or erratically
- Fish lying lethargically at the water surface or in shallow water
- Fish that are listless or nonresponsive to disturbance
- Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.)

Toxic or adverse effects also include any impact to humans or domesticated animals that are spatially and temporally related to direct or indirect exposure to a pesticide residue discharged to surface waters of the state (e.g., skin rashes, vomiting, lethargy, etc.).

Annual Treatment Area Threshold means an area (in acres) or linear distance (in miles) in a calendar year to which a Permittee is authorizing and/or performing pesticide applications in that area for activities covered under this permit that trigger the need for an Operator to apply for a COC under this permit.

For calculating annual treatment areas for Mosquitoes and Other Flying Insect Pest Control and Forest Canopy Pest for comparing with any threshold in Table 1-1, count each pesticide application activity to a treatment area (i.e. that area where pesticide application is intended to provide pesticidal benefits within the pest management area) as a separate area treated. For example, applying pesticides three times a year to the same 3,000 acre site should be counted as 9,000 acres of treatment area for purposes of determining if such an application exceeds an annual treatment area threshold. The treatment area for these two pesticide use patterns is additive over the calendar year.

PART II

Section A. Definitions

For calculating annual treatment areas for Nuisance Plant and Algae Control and Nuisance Animal Control for comparing with any threshold in Table 1-1, calculations should include either the linear extent of or the surface area of waters for applications made to Waters of the State of Michigan or at waters's edge adjacent to Waters of the State of Michigan. For calculating the annual treatment area, count each treatment area only once, regardless of the number of pesticide application activities performed on that area in a given year. Also, for linear features (eg. Canal or ditch), use the length of the linear feature whether treating in or adjacent to the feature, regardless of the number of treatments made to that feature during the calendar year. For example, whether treating the bank on one side of a ten-mile long ditch, banks on both sides of the ditch, and/or water in that ditch, the total treatment area is ten miles for purposes of determining if an NOI is required to be submitted. Additionally if the same 10 miles is treated more than once in calendar year, the total area treated is still 10 miles for purposes of comparing with any threshold in Table 1-1. The treatment area for these two pesticide use patterns is not additive of the calendar year.

Applicator means any entity who performs the application of a pesticide or who has day-to-day control of the application (i.e. are authorized to direct workers to carry out those activities) that results in a discharge to Waters of the State.

Best management practices (BMPs) means examples of control measures that may be implemented to meet discharge limitations. These include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to minimize the discharge of pollutants to surface waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control spillage or leaks, waste disposal, or drainage from raw material storage. [40 CFR 122.2]

Biological Control Agents means organisms that can be introduced to your site, such as herbivores, predators, parasites, and hyperparasites.

Biological pesticides (also called biopesticides) means microbial pesticides, biochemical pesticides, and plant-incorporated protectants (PIP). Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, that (1) is a eukaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a prokaryotic microorganism, including, but not limited to, eubacteria and archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [40 CFR 158.2100(b)] Biochemical pesticide means a pesticide that (1) is a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticide, is equivalent to a naturally-occurring substance that has such a history; and (3) has a non-toxic mode of action to the target pest(s). [40 CFR 158.2000(a)(1)] PIP means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. PIP also includes any inert ingredient contained in the plant, or produce thereof. [40 CFR 174.3]

Chemical pesticides means all pesticides not otherwise classified as biological pesticides.

Commercial applicator means a person who is required to be a registered or certified applicator, or who holds himself or herself out to the public as being in the business of applying pesticides. A commercial applicator does not include a person using a pesticide for a private agricultural purpose. (Michigan Act, Part 83, Pesticide Control, Section 8302(15))

Concentration means the volume of pesticide formulation and the volume of carrier used to make and end use dilution. (Michigan Act, Part 83, Regulation 636, Rule 1(d)).

Cultural methods means manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

PART II

Section A. Definitions

Declared Pest Emergency Situation means an event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control through application of a pesticide immediately after identification of the need for pest control. This public declaration may be based on:

- (1) significant risk to human health;
- (2) significant economic loss; or
- (3) significant risk to:
 - (i) endangered species;
 - (ii) threatened species;
 - (iii) beneficial organisms; or
 - (iv) the environment. [40 CFR 166]

Discharge means the "discharge of a pollutant," when used without qualification [40 CFR 122.2]

For Hire Applicator means persons who make contractual pesticide applications for which they or their employer receives compensation (e.g. lawn care firms, pest control companies)

Large Entity means any entity that is not a small entity.

Marker means an agent, such as oxytetracycline (OTC), used to determine the efficacy of a pesticide application.

Mechanical or physical methods means mechanical tools or physical alterations of the environment for pest prevention or removal.

Minimize means to reduce and/or eliminate pesticide discharges to surface waters of the state through the use of "control measures" to the extent technologically available and economically practicable and achievable.

Non-target organisms means the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

Operator means, for the purpose of this permit, any entity associated with the application of pesticides which results in a discharge to Waters of the State of Michigan that meets either of the following two criteria;

- (i) any entity that has day-to-day control of or performs activities that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves); or
- (ii) any entity with control over the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions.

Permittee means any entity with control over the decision to perform pesticide applications including the ability to modify those decisions that result in a discharge to Waters of the State of Michigan.

Permittee who is or will be required to submit an application means any Permittee covered under the PGP who knows or should have known that an application will be required for their discharges of pesticides to Waters of the State of Michigan. Excluded from this definition are those activities for which an application is required based solely on that Permittee exceeding an annual treatment area threshold.

Person means an individual, partnership, corporation, association, governmental entity, or other legal entity.

PART II

Section A. Definitions

Pest means any organism under circumstances that make it deleterious to man or to the environment if it is:

- (1) any vertebrate animal other than man;
- (2) any invertebrate animal, including but not limited to, any insect, arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;
- (3) any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or
- (4) any fungus, bacterium, virus, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDCA sec. 201(g)(1)) and cosmetics (as defined in FFDCA sec. 201(i)).

Pest management area means the area of land, including any water, for which an Operator has responsibility and is authorized to conduct pest management activities as covered by this permit. (e.g. for an Operator who is a mosquito control district, the pest management area is the total area of the district)

Pest Management Measures means any practice use to meet the discharge limitations that comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, relevant legal requirements and other provisions that a prudent Operator would implement to reduce and /or eliminate pesticide discharges to Waters of the State of Michigan

Pesticide means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and (3) any nitrogen stabilizer, except that the term "pesticide" shall not include any article that is a "new animal drug" within the meaning of section 201(w) of the federal food, drug, and cosmetic act (FFDCA) (21 United States Code (U.S.C.) 321(w)), that has been determined by the secretary of health and human services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 201(x) of such act (21 U.S.C. 321(x)) bearing or containing a new animal drug. The term "pesticide" does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the FFDCA (21 U.S.C. 321). For purposes of the preceding sentence, the term "critical device" includes any device that is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body, and the term "semi-critical device" includes any device that contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body. [FIFRA section 2(u)]

The term "pesticide" applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA including uses authorized under sections 3 (registration), 5 (experimental use permits), 18 (emergency exemption), 24(c) (special local needs registrations), and 25(b) (exemption from FIFRA).

Note: drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; such drugs are regulated By the food and drug administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides. Biological control agents, except for certain microorganisms, are exempted from regulation under FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc.)

This permit uses the term "pesticide" when referring to the "pesticide, as applied." When referring to the chemical in the pesticide product with pesticidal qualities, the permit uses the term "active ingredient".

Pesticide detoxification reagent means a substance, such as potassium permanganate, that reacts to detoxify a pesticide after application.

Pesticide product means a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

PART II

Section A. Definitions

Pheromone means a substance that triggers a social response in a species.

Point Source means any discernable, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff. [40 CFR 122.2]

Regional Administrator is the Region 5 Administrator, U.S. EPA, located at R-19J, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Registered Applicator means an individual who is authorized to apply general use pesticides for a private or commercial purpose as provided in the Michigan Act, Part 83, Pesticide Control, Section 8306(1)

Small Entity means any (1) private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201, or (2) local government that serves a population of 10,000 or less.

Surface waters of the state means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

- (i) The Great Lakes and their connecting waters.
- (ii) All inland lakes.
- (iii) Rivers.
- (iv) Streams.
- (v) Impoundments.
- (vi) Open drains.
- (vii) Wetlands.
- (viii) Other surface bodies of water within the confines of the state

Surveillance means the act of using a dip sampler to scoop up a small amount of water and examine it for the presence/absence of mosquito larvae and/or pupae in a water body.

Target Pest means the organism toward which pest control measures are being directed.

Total Maximum Daily Loads (TMDLs) are required by the Federal Act for waterbodies that do not meet Water Quality Standards. TMDLs represent the maximum daily load of a pollutant that a waterbody can assimilate and meet Water Quality Standards and an allocation of that load among point sources, nonpoint sources, and a margin of safety.

Treatment area means the entire area, whether over land or water, where the pesticide application is intended to provide pesticidal benefits within the pest management area. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip treatment into a canal includes the entire width and length of the canal over which the pesticide is intended to control weeds. Similarly, the treatment area for a lake or marina area is the water surface area where the application is intended to provide pesticidal benefits. Multiple treatment areas may be located within a single "pest management area".

Water Quality Standards means the Part 4 Water Quality Standards promulgated pursuant to Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being Rules 323.1041 through 323.1117 of the Michigan Administrative Code.

PART II**Section B. Reporting Requirements****1. Compliance Dates Notification**

Within 14 days of every compliance date specified in this permit, the Permittee shall submit a written notification to the Department indicating whether or not the particular requirement was accomplished. If the requirement was not accomplished, the notification shall include an explanation of the failure to accomplish the requirement, actions taken or planned by the Permittee to correct the situation, and an estimate of when the requirement will be accomplished. If a written report is required to be submitted by a specified date and the Permittee accomplishes this, a separate written notification is not required.

2. Adverse Incident Documentation and Reporting

Compliance with all applicable requirements set forth in the Federal Act, Part 31 of the Michigan Act, and related regulations and rules is required. All instances of noncompliance shall be reported as follows:

- a. 24-hour Adverse Incident Notification - Any noncompliance which may endanger health or the environment (including unauthorized release or discharge; failure to meet water quality standards due to inadequate/insufficient control measures; failure to minimize discharge; unusual or unexpected effects to non-target organisms; or unnatural turbidity, color, oil film, floating solids, foams, settleable solids, suspended solids, or deposits in or around the area of pesticide application, etc.) shall be reported, verbally, within 24 hours from the time the Operator becomes aware of the noncompliance, and the cause(s) of the noncompliance shall be investigated.
- b. Thirty (30) day Adverse Incident Written Report - A written submission shall also be provided within thirty (30) days detailing the findings of the investigation and the steps taken to correct the condition(s) that led to the noncompliance.
- c. Other reporting - The Permittee shall report, in writing, all other instances of noncompliance not described in a. above within thirty (30) days from the time the Operator becomes aware of the noncompliance.
- d. Adverse incident to endangered or threatened species or critical habitat – the U.S. Fish and Wildlife Service must be immediately notified by telephone at 517-351-2555 of any adverse incident involving a protected species and/or habitat that may have resulted from the discharge from the Operator's pesticide application.

Written reporting shall include: 1) a description of the discharge and cause of the noncompliance; and 2) the period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and 3) the steps taken, including updates to the PDMP or PDEW, to reduce, eliminate and prevent recurrence of the non-complying discharge.

3. Spill Notification

The Operator shall immediately report any release of any polluting material which occurs to the surface waters or groundwaters of the state, unless the Operator has determined that the release is not in excess of the threshold reporting quantities specified in the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code), by calling the appropriate Water Resources Division District Office (see Attachment A for contact information), or if the notice is provided after regular working hours call the Department's 24-hour Pollution Emergency Alerting System telephone number, 1-800-292-4706 (calls from out-of-state dial 1-517-373-7660).

Within ten (10) days of the release, the Permittee shall submit to the Department a full written explanation as to the cause of the release, the discovery of the release, response (clean-up and/or recovery) measures taken, and preventative measures taken or a schedule for completion of measures to be taken to prevent reoccurrence of similar releases.

PART II

Section B. Reporting Requirements

4. Upset Noncompliance Notification

If a process "upset" (defined as an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit discharge limitations because of factors beyond the reasonable control of the Operator) has occurred, the Operator who wishes to establish the affirmative defense of upset, shall notify the Department by telephone within 24-hours of becoming aware of such conditions; and within five (5) days, provide in writing, the following information:

- a. that an upset occurred and that the Operator can identify the specific cause(s) of the upset;
- b. that the pesticide application equipment was, at the time, being properly operated; and
- c. that the Operator has specified and taken action on all responsible steps to minimize or correct any adverse impact in the environment resulting from noncompliance with this permit.

In any enforcement proceedings, the Operator, seeking to establish the occurrence of an upset, has the burden of proof.

5. Bioaccumulative Chemicals of Concern (BCC)

Consistent with the requirements of Rules 323.1098 and 323.1215 of the Michigan Administrative Code, the Operator(s) is/are prohibited from undertaking any action that would result in a lowering of water quality from an increased loading of a BCC unless an increased use request and antidegradation demonstration have been submitted and approved by the Department.

6. Transfer of Ownership or Control

In the event of any change in control or ownership of the regulated activities from which the authorized discharge emanates, the Permittee shall submit to the Department thirty days prior to the actual transfer of ownership or control a written agreement between the current Permittee and the new Permittee containing: 1) the legal name and address of the new owner; 2) a specific date for the effective transfer of permit and responsibility, coverage and liability; and 3) a certification of the continuity of or any changes in operations or pesticide use.

If the new Permittee is proposing changes in operations or pesticide use, the Department may propose modification of the COC in accordance with applicable laws and rules.

PART II**Section B. Reporting Requirements****7. Signatory Requirements**

All documents or forms submitted to the department in accordance with the conditions of this general permit that require a signature shall be signed as described below:

- a. The signatory shall be (or a duly authorized representative of this person):
 - for a corporation, a principal executive officer of at least the level of vice president, or a designated representative, if the representative is responsible for the overall operation from which the discharge described in the permit application originates,
 - for a partnership, a general partner,
 - for a sole proprietorship, the proprietor, or
 - for a municipal, state, or federal entity, either a principal executive officer, the mayor, village president, city or village manager or other duly authorized employee., or
 - for a private non-profit or for-profit organization, association, or board, the executive officer, chairperson or designated representative, if that representative is responsible for the decision to perform pesticide control activities described in the permit application.
 - for private property, a property owner or designated representative, if that representative is responsible for the decision to perform pesticide control activities described in the permit application.
- b. A person is a duly authorized representative only if:
 - the authorization is made in writing to the Department by a person described in paragraph a. of this section; and
 - the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position).

Nothing in this section obviates the Permittee from properly submitting reports and forms as required by law.

PART II**Section C. Management Responsibilities****1. Duty to Comply**

All discharges authorized herein shall be consistent with the terms and conditions of this general permit and the Permittee's COC, if required. The discharge of any pollutant identified in this general permit and/or the Permittee's COC more frequently than or at a level in excess of that authorized shall constitute a violation of the general permit.

It is the duty of the Permittee to comply with all the terms and conditions of this general permit and the Permittee's COC, if required. Any noncompliance with the Discharge Limitations, IPM Practices, PDMP, or terms of this general permit or the Permittee's COC constitutes a violation of the Michigan Act and/or the Federal Act and constitutes grounds for enforcement action; for COC termination, revocation and reissuance, or modification; or denial of an application for permit or COC renewal.

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this general permit.

2. Operator Certification

All Operators shall perform the discharge by or under the direct supervision of a certified or registered pesticide applicator as required under Act 451, Part 83, Pesticide Control, Section 8314, if applicable.

3. Containment Facilities

The Operator(s) shall provide facilities for containment of any accidental losses of polluting materials in accordance with the requirements of the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code).

4. Right of Entry

The Operator(s) shall allow the Department, any agent appointed by the Department or the Regional Administrator, upon the presentation of credentials:

- a. to accompany the Operator upon premises where a pesticide application is being conducted or enter into premises where any records are required to be kept under the terms and conditions of this permit; and
- b. at reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect the pesticide treatment area, pesticide application equipment and to sample any discharge of pollutants.

5. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Act and Rule 2128 (Rule 323.2128 of the Michigan Administrative Code), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department and the Regional Administrator. As required by the Federal Act, discharge data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Act and Sections 3112, 3115, 4106 and 4110 of the Michigan Act.

PART II

Section C. Management Responsibilities

6. Corrective Action

If any Operator fails to comply with any of the requirements of Part I.B.1. of this permit, then the Permittee shall review and revise the evaluation and selection of pest management measure(s) so that the conditions that allowed noncompliance to occur are eliminated. Any modification(s) to the pest management measure(s) shall be completed prior to the next pesticide application which results in a discharge. The Permittee shall document, within 30 days of the noncompliant activity, the situation that triggered corrective action and a description of the planned corrective action. This documentation shall include the following information:

- a. Identification of the condition triggering the need for corrective action, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;
- b. A brief description of the situation, including how and when the problem was identified, and how and when the Operator learned of the problem;
- c. A summary of the corrective action taken or to be taken, including the date initiated and date completed or expected to be completed; and
- d. Any measures to prevent reoccurrence of such an incident, including notice of whether modifications to the PDMP are required as a result of the incident.
- e. Date the problem was identified.

7. Endangered, Threatened, and Special Concern Species

The Permittee is encouraged to fill out and submit the Michigan Natural Features Inventory Special Species Form when endangered, threatened, and special concern species are observed. The form is available at: http://web4.msue.msu.edu/mnfi/contact/Special_Species_Form.pdf.

PART II**Section D. Activities Not Authorized by This Permit****1. Discharge to the Groundwaters**

This permit does not authorize any discharge to the groundwaters. Such discharge may be authorized by a groundwater discharge permit issued pursuant to the Michigan Act.

2. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve any Operator from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the Operator's control, such as accidents, equipment breakdowns, or labor disputes.

3. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve any Operator from any responsibilities, liabilities, or penalties to which the Operator may be subject under Section 311 of the Federal Act except as are exempted by federal regulations.

4. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve any Operator from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Federal Act.

5. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other Department of Environmental Quality permits, or approvals from other units of government as may be required by law.

6. Endangered and Threatened Species Liability

Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve any Operator from any responsibilities, liabilities, or penalties to which the Operator may be subject under the Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.) or Endangered Species Protection, Part 365 of the Michigan Act. Information on endangered and threatened species is available on the Internet at <http://www.michigan.gov/dnr>.

ATTACHMENT A
Water Resources Division District Boundaries and Contact Information



